

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HOUSE CONCURRENT MEMORIAL 2003

A CONCURRENT MEMORIAL

**URGING THE CONGRESS OF THE UNITED STATES TO PROTECT THE CITIZENS OF THE STATE
OF ARIZONA BY ENACTING LEGISLATION TO ENSURE REASONABLE RATES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 To the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 Whereas, the Legislature of the State of Arizona is committed to our
4 nation's free market economic model and believes, specifically, that markets
5 subject to competition should not be regulated by the local, state or federal
6 governments but that those markets that are not subject to competition and
7 yet supply important commodities, products or services to the citizens of
8 Arizona must be subject to effective local, state or federal government
9 regulation; and

10 Whereas, important commodities, such as coal for electric generating
11 facilities and grain for dairy and beef cattle production, are dependent on
12 railroad transportation into the State of Arizona; and

13 Whereas, dairy and beef cattle producers in Arizona are dependent on
14 the railroad to import seventy-five per cent of the grain necessary to
15 produce milk and beef in Arizona; and

16 Whereas, the coal that is brought by rail into the State of Arizona to
17 be consumed by Arizona electric generating facilities often is dependent on a
18 single railroad for transportation, such that normal market forces are not
19 present to constrain the price charged Arizona electric generators or the
20 transportation service that they receive; and

21 Whereas, coal brought into the State of Arizona by Arizona electric
22 generating facilities is used to generate forty per cent of the electricity
23 produced in the state and all of this imported coal is delivered by a class 1
24 railroad in a "captive" relationship; and

25 Whereas, the cost to transport coal to an electric generating facility
26 in the State of Arizona where there is no effective rail competition present
27 is often at least twice the cost of transporting coal where effective rail
28 competition exists, even though the cost to the railroad of such
29 transportation is no higher than for transportation where competition exists;
30 and

31 Whereas, the unreasonably high rail rates of captive coal are passed
32 through to the Arizona consumers of electricity, thus increasing the price of
33 electricity to the families and businesses of Arizona and decreasing the
34 disposable income available for other family and business needs; and

35 Whereas, the Congress of the United States, in 1980, deregulated
36 railroad transportation where rail competition exists but directed a federal
37 agency, now the Surface Transportation Board, to ensure that "captive" rail
38 customers not be charged higher rates than are appropriate; and

39 Whereas, the Surface Transportation Board, in implementing its
40 responsibilities under the deregulation act, has allowed the railroads to
41 increase their market power through mergers and acquisitions and has allowed
42 the railroads to avoid rail-to-rail competition wherever possible; and

43 Whereas, the Surface Transportation Board has developed a process that
44 ensures "captive" rates are reasonable and that places all burdens of proof
45 on the rail customer in rate cases that, according to recent Congressional

1 testimony, cost the rail customer at least \$3 million to prosecute and take
2 at least two years for resolution and rarely result in victory for the rail
3 customer; and

4 Whereas, the Surface Transportation Board implementation of its
5 responsibilities under the deregulation act is not constraining captive rail
6 rates and is resulting in unreasonably high costs for the electricity
7 consumers of Arizona; and

8 Whereas, despite the inadequacy of the current federal regulatory
9 regime for captive rail rates, the American railroad industry continues to be
10 the only American industry that is exempt from major portions of the nation's
11 antitrust laws.

12 Wherefore your memorialist, the House of Representatives of the State of
13 Arizona, the Senate concurring, prays:

14 1. That the Congress of the United States protect the citizens of the
15 State of Arizona by enacting legislation that ensures that the Surface
16 Transportation Board will facilitate rail-to-rail competition wherever
17 possible, that the Surface Transportation Board will develop a cost-effective
18 and time-effective process that ensures that captive rail customers pay
19 reasonable rates and that the American railroad industry is subject to all
20 provisions of the nation's antitrust laws.

21 2. That Congress enact legislation similar to the Railroad Competition
22 Act of 2003, S. 919 and H.R. 2924, from the 108th Congress.

23 3. That the Members of Congress from the State of Arizona support this
24 legislation.

25 4. That the Secretary of State of the State of Arizona transmit copies
26 of this Memorial to the President of the United States Senate, the Speaker of
27 the United States House of Representatives and each Member of Congress from
28 the State of Arizona.

PASSED BY THE HOUSE FEBRUARY 28, 2005.

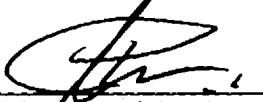
PASSED BY THE SENATE APRIL 14, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.

Passed the House February 28, 20 05

by the following vote: 45 Ayes

13 Nays, 2 Not Voting


Speaker of the House

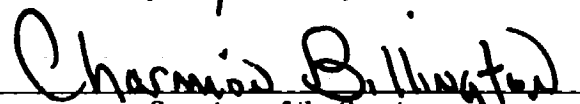

Chief Clerk of the House

Passed the Senate April 14, 20 05

by the following vote: 28 Ayes

0 Nays, 2 Not Voting


President of the Senate


Secretary of the Senate


EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Memorial was received by the Secretary of State

H.C.M. 2003

this 18 day of April, 20 05

at 12:26 o'clock P. M.


Secretary of State